

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed May 2, 2006. At the time of the Office Action, Claims 1-5, 7-13, 15-19, 21-25, and 27 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

The Examiner rejects Claims 1-6, 8, and 10-27 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,505,174 issued to Keiser et al. (hereinafter "*Keiser*"). Applicant respectfully traverses this rejection for the following reasons.

Applicant will avoid further burdening the Examiner with well-settled 102 case law. Applicant stands ready to appeal this case, as *Keiser* is lacking [for purposes of anticipation] for a multitude of reasons. First, the Examiner has incorrectly combined several different embodiments of *Keiser* in an effort to teach various integrated aspects of the presently claimed subject matter. The Examiner should understand that the theme of Independent Claim 1 is data access.

Ostensibly, the Examiner is using the (pay-per-view) market research tool of *Keiser* to teach such data access. However, when the Examiner cites Column 24, lines 43-46 for the verification aspect of the present invention, he has departed from that market research tool. Indeed, *that* verification is not a verification at all. The price generation in that recited passage is simply for historical prices of securities and indexes. In contrast to this random pricing information, Independent Claim 1 recites a **pricing parameter relating to the data segment to be accessed by the end user**.

The Examiner has similarly misapplied *Keiser* in the context of quota. Independent Claim 1 recites a content services gateway coupled to the billing system element and operable to communicate with the billing system element in order to manage distribution of quota provided to the end user, wherein the quota reflects a currency **for the end user to apply in accessing the data segment**. So the currency (or quota) relates to access of the data segment: not ownership of the underlying asset. This is clearly circumscribed by Independent Claim 1, yet it is not found anywhere in *Keiser*. At Column 23, lines 63-67, the

Examiner has relied on the triggering of stop loss orders as evidence of this function. But again, the distinction here is ownership of a stock versus privilege or right to access certain information. When an end user elects to access certain network information on a pay-per-view basis, he is paying for the right to view that data (e.g. an article of on www.espn.com, a picture from a local event, a publication from the Wall Street Journal online, etc.). The end user does not own ESPN merely because he has paid for access to a data segment. The Examiner should remember that when there is sufficient quota, the billing system element manages the quota by *applying* it such that the data segment can be *accessed*. This again is outlined by Independent Claim 1, but it is not found in *Keiser*.

Because *Keiser* fails to disclose the elements identified above, Independent Claim 1 is patentable over this reference.

Section 103 Rejection

The Examiner rejects Claims 7 and 9 under 35 U.S.C. §103(a) as being unpatentable over *Keiser*. Applicant respectfully traverses this rejection for the following reasons.

Applicant respectfully reminds the Examiner that to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior reference (or references when combined) must teach or suggest all of the claim limitations.¹ It is respectfully submitted that these rejected Claims are patentable over the art of record based on at least the third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each and every claim limitation. This prong of §103 has been evaluated extensively in the analysis provided above.

Accordingly, Independent Claim 1 is clearly patentable over the proposed combination for at least these reasons. Additionally, the other Independent Claims recite a similar (but not an identical) limitation and, therefore, are also allowable over the proposed

¹ See M.P.E.P. §2142-43.

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combination. In addition, their corresponding dependent claims are patentable over the proposed combination for analogous reasons. Therefore, all of the pending claims are allowable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of the pending claims.

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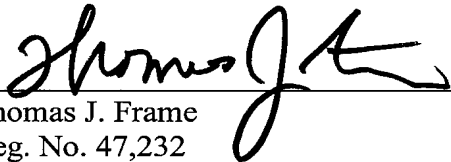
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not correct, the Commissioner is hereby authorized to charge any additional amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214.953.6675.

Respectfully submitted,
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